

MINUTES OF THE SOLID WASTE BOARD MEETING  
Indiana Government Center South  
402 West Washington Street  
Conference Center Room A  
Indianapolis, Indiana  
October 21, 2003

The meeting was called to order by Mayor William Graham, Vice Chairperson, at 1:37 p.m. Those present for all or part of the meeting were:

Mr. Michael Carnahan  
Ms. Linda Cosgrove  
Mr. Rick Dyar  
Mayor William Graham  
Mr. Chuck Himes  
Dr. Lenore Tedesco  
Mr. Howard Cundiff (Proxy, Indiana State Department of Health)  
Mr. Craig Bair (Proxy, Department of Natural Resources)  
Ms. Pamela Fisher, (Proxy, Lieutenant Governor's Office)  
Ms. Deborah Albright, Board Counsel

A quorum was present.

In addition, the following IDEM staff members were present for all or part of the meeting:

Mr. Bruce Palin, Deputy Assistant Commissioner, Office of Land Quality  
Ms. Lynn West, Operations and Information Branch, Rules, Planning and Outreach Section  
Mr. Steve Mojonier, Operations and Information Branch, Rules, Planning and Outreach Section  
Ms. Pam Koons, Operations and Information Branch, Rules, Planning and Outreach Section  
Ms. Marjorie Samuel, Operations and Information Branch, Rules, Planning and Outreach Section  
Mr. Skip Powers, Section Chief, Compliance and Response Branch, Underground Storage Tanks Section  
Ms. Rosemary Cantwell, Section Chief, Compliance and Response Branch, Industrial Waste Group #1  
Ms. Tracy Barnes, Compliance and Response Branch, Technical Compliance Section

Mayor Graham introduced new Board member Dr. Lenore Tedesco, representing the general public. He also announced the appointment of Mr. Kerry Stepter, the newly appointed Solid Waste Management Board member industry representative.

1. Mayor Graham asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of November 19, 2002. APPROVAL OF MINUTES  
Ms. Linda Cosgrove said that under Item No. 6, line 4, "Marshall Landfill" should be changed to "Munster Landfill". Ms. Cosgrove then moved that the minutes be approved as amended and Mr. Howard Cundiff seconded. The motion passed unanimously.

Mayor Graham then asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of March 18, 2003. There being none, Ms. Cosgrove moved that the minutes be approved as presented and Mr. Rick Dyar seconded. The motion passed unanimously.

Mayor Graham then asked for additions or corrections to the minutes of the Solid Waste

Management Board meeting of August 26, 2003. There being none, Ms. Cosgrove moved that the minutes be approved as presented and Mr. Rick Dyar seconded. The motion passed unanimously.

2. Mayor Graham then asked Mr. Bruce Palin to address the Board. Mr. Palin mentioned that the year-end evaluation with EPA on the hazardous waste program was completed and that the reviews on the various aspects of the program were very favorable. Mr. Palin then asked Ms. Lynn West to give an update on the rules.

ASSISTANT  
COMMISSIONER'S  
REPORT

Ms. West noted that the 2003 Hazardous Waste Annual Update rule had been added to the project list. She also announced that there would be an informational presentation at the November Board meeting regarding Indiana 2002 Solid Waste Facility Data and the Annual Hazardous Waste Report. Ms. West also said that IDEM is cosponsoring the 11<sup>th</sup> Annual Solid Waste Management Directors' Conference on October 29 and 30<sup>th</sup>. She distributed an informational brochure.

Mayor Graham then announced the following rulemaking actions:

- Final adoption of amendments to rules of the Board at 329 IAC 3.1, hereafter known as the 2002 Hazardous Waste Annual Update Rule;  
Hearing was noticed in the Indiana Register at 26 IR 3672; opened at the August 26, 2003 Solid Waste Management Board meeting and continued to October 21, 2003.
- Final adoption of amendments to rules of the Board at 329 IAC 9, hereafter known as the Underground Storage Tank Rule;  
Hearing was noticed in the Indiana Register at 26 IR 3671; opened at the August 26, 2003 Solid Waste Management Board meeting and continued to October 21, 2003.
- Final adoption of amendments to rules of the Board at 329 IAC 10, hereafter known as the Solid Waste Land Disposal Facilities Rule;  
Hearing was noticed in the Indiana Register at 27 IR 208.
- Final adoption of amendments to rules of the Board at 329 IAC 10 through 329 IAC 13, hereafter known as Removal of References to Special and Industrial Waste from 329 IAC 10 through 329 IAC 13 rule;  
Hearing was noticed in the Indiana Register at 26 IR 3903.
- Preliminary adoption of amendments to rules of the Board at 329 IAC 3.1, hereafter known as the Rules Implementing Indiana's Ground Water Quality Standards, 327 IAC 2-11, for the Hazardous Waste Management Program.  
Hearing was noticed in the Indiana Register at 26 IR 3903.

Mayor Graham said that the above rules had been either included in the Board packet from August 26, 2003, or included in Board packets for this meeting. Rules are available for public inspection in the Indiana Department of Environmental Management File Room, located on the 12<sup>th</sup> floor of the Indiana Government Center North. Instructions were given to the public regarding offering oral statements and comments to the Board; the court reporter was affirmed.

3. Mayor Graham announced that amendments to rules of the Board at

FINAL ADOPTION  
2002 HAZARDOUS WASTE

329 IAC 3.1, the 2002 Hazardous Waste Annual Update Rule, continued from the August 26, 2003 Solid Waste Management

ANNUAL UPDATE RULE  
329 IAC 3.1

board meeting would now be considered for final adoption. Exhibit A, the rule as preliminarily adopted, had been introduced into the record of the hearing. There being no public comment, the hearing was closed. There being no public comment or board discussion, Mr. Rick Dyar moved that the rule be final adopted. Mr. Chuck Himes seconded. The motion passed unanimously.

4. Mayor Graham announced that amendments to rules of the Board at 329 IAC 9, the Underground Storage Tank Change Rule, continued from the August 26, 2003 Solid Waste Management

FINAL ADOPTION  
UNDERGROUND STORAGE  
CHANGE RULE  
329 IAC 9

board meeting, would now be considered for final adoption. Exhibit B, the proposed rule as preliminarily adopted, and Exhibit B1, IDEM's suggested changes, had been introduced into the record of the hearing.

There were two speakers who asked to address the Board. Mr. Mark Ehrman, Marathon Oil, spoke in favor of adoption of the rule (see page 17 of the official transcript of this meeting). Ms. Maggie McShane, representing the Indiana Petroleum Council, submitted written comment of behalf of petroleum marketers in support of the rule. She then expressed appreciation to Mr. Bruce Palin and IDEM staff who met with the council and other industry representatives to work out minor differences. She felt that the rulemaking process with this rule was a positive experience and that the rule is a "much better product" than the initial rule. (See pages 18 through 19 of the official transcript of this meeting for a verbatim account of Ms. McShane's comments.) Mayor Graham then read the letter submitted by Ms. McShane from the Indiana Petroleum Marketers, by Mr. Scot Imus. The letter briefly reviewed the process by which consensus was achieved and offered support for the final adoption of the rule.

Mayor Graham then closed the hearing and asked for Board comment or questions. Ms. Cosgrove asked if three business days' advance notice of inspection was being given. She wondered why updated records aren't kept on site in a binder. If records are not available, how many days do facilities have to provide those records. Mr. Skip Powers, Compliance and Response Branch, Underground Storage tank Section, said that while it is not a requirement, staff make effort to contact facilities in advance. If records are kept at a home office versus in the field or out in service stations, records are requested to be sent within a thirty (30) day time frame. It is preferable and practical to have records out in the field so that inspectors know about the physical layout of the facility so inspectors do encourage facilities to keep certain records on site. In response to Ms. Cosgrove's question, Mr. Powers said that response from facilities is about "50/50". He expected that compliance will improve with time as far as records are concerned when owners have a better grasp of what is needed. Please see pages 21 through 26 of the official transcript of this meeting for a verbatim account of this discussion.

There being no further discussion, Mayor Graham asked for a motion to adopt Exhibit B1, IDEM's suggested changes, as previously submitted. Ms. Cosgrove so moved and Mr. Himes seconded. The motion passed unanimously. Mayor Graham then asked for a motion is final adopt the proposed rules as amended. Mr. Himes so moved and Mr. Craig Bair so moved. The motion passed unanimously.

5. Mayor Graham announced that amendments to rules of the Board at 329 IAC 10, the Solid Waste Land Disposal Rule, would now be considered for final adoption. Exhibit C, the proposed rule as preliminarily adopted, and Exhibit C1, IDEM's suggested changes in the form of a comparison document were introduced into the record of the hearing. He then asked Ms. Pam Koons, Rules Planning and Outreach Section, to address the Board.

FINAL ADOPTION  
SOLID WASTE LAND DISPOSAL RULE  
329 IAC 10

Ms. Koons briefly reviewed the history of the rule and explained that the rulemaking was the result of statutory mandate, federal regulations and requests by staff and the public, including the regulated community. Ms. Koons said that there were revisions to definitions, as well as language changed for clarification and elimination of duplicative or outdated requirements. The storm water management requirements were incorporated into the solid waste rules so that the solid waste permit will replace the need for a separate storm water permit. In order to accomplish this, several definitions were added and permit application requirements were updated. This included the addition of a pollution prevention plan for storm water runoff, discharge monitoring equipment and updating records and reports requirements. Many other small changes resulted from the addition of the storm water management requirements, so a comparison document was prepared to illustrate where these occurred. Ms. Koons concluded her remarks by recommending the final adoption of the proposed rule with IDEM's suggested changes. For a complete account of Ms. Koons' remarks, please see pages 30 through 34 of the official transcript of this meeting.

Mayor Graham asked for public comment. There being none, he concluded the hearing. There were no questions from the Board. Mayor Graham asked for a motion to adopt Exhibit C1, IDEM's suggested changes. Mr. Howard Cundiff so moved and Mr. Bair seconded. The motion passed unanimously. Mayor Graham asked for a motion to final adopt the rule as amended. Ms. Cosgrove so moved and Mr. Dyar seconded. The motion passed unanimously.

6. Mayor Graham announced that amendments to rules of the Board at 329 IAC 10, through 329 IAC 13, Removal of References to Special and Industrial Waste from 329 IAC 10 through 329 IAC 13 would now be considered for final adoption. Exhibit D, the proposed rule as preliminarily adopted, and Exhibit D1, IDEM's suggested changes were introduced into the record of the hearing. He then asked Mr. Steve Mojonniier, Rules Planning and Outreach Section, to address the Board.

FINAL ADOPTION  
REMOVAL OF REFERENCES TO  
SPECIAL AND INDUSTRIAL WASTE  
FROM 329 IAC 10 THROUGH 329 IAC 13

Mr. Mojonniier briefly reviewed the history of the rule. He said that significant changes have been made to the draft rule and that meetings have been held with interested parties to discuss major parts of the rule. There has also been continuing discussions with the regulated community regarding several issues, including the use of materials containing PCBs as alternative daily cover and responsibilities that generators have to identify the properties of the wastes they generate. Also, as a result of Public Law 218-2001, references to special waste and industrial waste in the rules of the Board have been removed. Mr. Mojonniier said that there are still three issues that need further discussion:

1. Deletion of the definition of "waste determination";

2. Study of the modification the definition of “municipal solid waste landfill”; changes made to this definition created the misconception that new regulations had been written, but actually requirements in the definition had merely been moved to a new section. No new requirements have been added. Rule drafting requirements also appeared to limit municipal solid waste landfills from accepting anything but municipal solid waste.
3. How much information does a generator need to have regarding a waste how much detail is necessary. These are complicated issues because wastes and levels of documentation vary greatly from one situation to another. An attempt has been made to balance specificity with flexibility.

Mr. Mojonnier concluded his talk by asking that the board delay final action to the November 18, 2003 Solid Waste Management Board meeting so that work may continue on outstanding issues. For a complete account of Mr. Mojonnier’s remarks, please see pages 37 through 46 of the official transcript of this meeting.

Mayor Graham asked for questions from the Board. Ms. Cosgrove asked for more information on PCBs as daily cover. Mr. Mojonnier explained how that would be handled. Mr. Himes asked for clarification of packet enclosures.

Mayor Graham then called for public comment. Mr. Vince Griffin with the State Chamber, said that while they support IDEM’s position, they would like to see “some tweaking, some correction” (page 51). Mr. Griffin also asked the Board to postpone final adoption so more work can be done.

Mayor Graham asked for any further public comment or Board discussion. There being none, Mayor Graham continued the hearing to the November 18, 2003 Solid Waste Management Board, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, at 1:30 p.m.

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| <ol style="list-style-type: none"> <li>7. Mayor Graham announced that amendments to rules of the Board implementing Indiana’s Ground Water Quality Standards, 327 IAC 2-11, for the hazardous Waste Management Program would now be considered for preliminary adoption. Exhibit E, the draft rule was introduced into the record of the hearing. He then asked Mr. Steve Mojonnier, Rules Planning and Outreach Section, to address the Board.</li> </ol> | <p><b>PRELIMINARY ADOPTION<br/>HAZARDOUS WASTE GROUND<br/>WATER QUALITY STANDARDS</b></p> |
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Mr. Mojonnier said that this rulemaking came as a result of IC 13-18-17-5, Public Law 168-1999, per Senate Enrolled Act 83, that required the Water Pollution Control Board to adopt rules to set ground water quality standards establishing “minimum compliance levels for ground water quality monitoring at regulated facilities, ban the discharge of effluents into potable ground water, establish health protection goals for untreated water and water supply wells, and establish concentration limits for contaminants in ambient ground water.” (page 53). It was determined that these standards would have to be put in the hazardous waste rules to make the rules consistent with the new ground water quality standards. Mr. Mojonnier said that 18 new constituents would be added that facilities must monitor to see if the constituents for if they’ve been detected in the ground water and could be expected to have come from waste in the facility.

Concentrations have been changed for six other constituents and 17 contaminants were also added. There are certain industries listed in Public Law 231-2003 that this rule will not apply to until July 1, 2005. Mr. Mojonnier further indicated that the economic impact on regulated facilities was not expected to be greater than \$500,000. He recommended preliminary adoption.

There being no public comment or Board discussion, Mayor Graham asked for a motion to preliminarily adopt the rule as presented. Ms. Cosgrove so moved and Mr. Bair seconded. The motion passed unanimously.

8. Mayor Graham adjourned the meeting at 2:28 p.m.

ADJOURNMENT

The next meeting will be November 18, 2003, at 1:30 p.m., in the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana 46204.

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TECHNICAL SECRETARY